

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

ANTHONY L. ROBINSON,
Plaintiff,

v.

ANTHONY A. LAMARQUE, et al.,
Defendants.

Case No. 02-cv-01538-NJV

**ORDER DENYING MOTION FOR
ENFORCEMENT OF TRIAL COURT'S
ORDER AND PERMANENT
INJUNCTION, COMMITMENT FOR
CIVIL CONTEMPT**

Re: Dkt. No. 384

Pending before the court is Plaintiff Anthony L. Robinson's Motion for Enforcement of Trial Court's Order and Permanent Injunction, Commitment for Civil Contempt, filed December 7, 2015. (Doc. 384.) Defendants oppose the Motion. (Doc. 385.) For the reasons stated below, the court denies the Motion.

PROCEDURAL HISTORY

On August 31, 2010, following a jury trial, the court entered a permanent injunction which included the requirement that Defendant Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation ("CDCR"), and his agents and all persons in active concert or participating with any of them who received actual notice, permit Plaintiff to participate in the CDCR's Jewish Kosher Meal Program on the same terms and conditions as kosher-observant Jewish inmates. (Doc. 316.) The court expressly retained jurisdiction of this action for all purposes, including without limitation, all proceedings involving the interpretation, enforcement, or amendment of the permanent injunction. (*Id.*)

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DISCUSSION

Plaintiff alleges that officials at California State Prison, Corcoran refused to provide him with his court-mandated kosher meals on October 23, 2015, October 24, 2015, October 25, 2015, and October 28, 2015. He further alleges that he was not given kosher meals while he was at the California Health Care Facility in Stockton, from May 3, 2015, through May 29, 2015. Finally, Plaintiff alleges that although he returned to California State Prison, Corcoran on May 29, 2015, he did not receive his kosher meals until late June 2015.

The injunction entered by the court on August 31, 2010, provides that, “[i]n the event that any dispute or disagreement arises in the future with respect to Plaintiff’s participation in the Jewish Kosher Meal Program, Plaintiff is required to fully exhaust all available administrative remedies before seeking the Court’s intervention.” (Doc. 316, 1:26-2:1.) Plaintiff does not allege in that he has complied with this requirement.

In opposing Plaintiff’s Motion, Defendants contend that Plaintiff in fact has not complied with the requirement of exhausting his administrative remedies before seeking relief from this court. Defendants provide the Declaration of A. Pacillas, Appeals Coordinator at California State Prison, Corcoran. (Doc. 387.) Pacillas states under penalty of perjury that two days after Plaintiff filed his Motion, Corcoran State Prison received Plaintiff’s administrative grievance about kosher meal service in October 2015. (Doc. 387, para. 8.) At the time of Pacillas’ Declaration on December 17, 2015, Plaintiff’s grievance remained at the first level and had not yet been exhausted. *Id.* The grievance therefore had not been exhausted at the time that Plaintiff filed the current motion. Pacillas further states that Plaintiff never exhausted any grievance about Corcoran’s kosher meal service in June 2015. (*Id.* at para. 7-10). Finally, Defendants provide the Declaration of A. Infante, Appeals Coordinator at the California Health Care Facility. (Doc. 386.) Infante states under penalty of perjury that Plaintiff did not file any grievance about Kosher meals at California Healthcare Facility in 2015. (*Id.* at 7-9.)

Based on the foregoing, the court concludes that Plaintiff has failed to comply with the requirement set forth in the court’s order of August 31, 2010, that he fully exhaust all administrative remedies before seeking the court’s intervention regarding the Kosher Meal

1 Program. Plaintiff's Motion is therefore DENIED.

2 **IT IS SO ORDERED.**

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4 Dated: January 20, 2016

A handwritten signature in black ink, appearing to read 'NANDOR J. VADAS', is written over a horizontal line.

NANDOR J. VADAS
United States Magistrate Judge

United States District Court
Northern District of California